



DEPARTMENT OF TRANSPORTATION
MATERIALS TRANSPORTATION BUREAU
WASHINGTON, D.C. 20590

37426

[49 CFR Part 175]

[Docket No. HM-131; Notice No. 75-10]

CARRIAGE BY AIRCRAFT

**Proposed Inspection and Monitoring Requirements for Radioactive Materials—
Withdrawal of Notice**

AGENCY: Materials Transportation Bureau, Department of Transportation (DOT).

ACTION: Withdrawal of Notice of proposed rulemaking.

SUMMARY: The purpose of this notice is to withdraw Docket No. HM-131, Notice No. 75-10 which proposed certain inspection and monitoring requirements for radioactive materials shipped by air.

DATES: Effective July 21, 1977.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: On December 11, 1975, the Materials Transportation Bureau (MTB) published Docket No. HM-131, Notice No. 75-10 in the FEDERAL REGISTER (40 FR 588). This notice modified an earlier Federal Aviation Administration (FAA) rulemaking action which prescribed inspection requirements to be carried out by air carriers for hazardous materials shipments. The FAA notice (Docket No. 13668) was published on April 25, 1974, (39 FR 14612), issued with certain revisions as an amendment on February 4, 1975, (40 FR 5140), and was to have become effective March 7, 1975. Among the requirements were specific monitoring procedures to be followed, including specifications for the radiation monitoring equipment to be used. As a result of numerous comments, the monitoring requirements for radioactive materials packagings were deleted from the FAA amendment, and Docket No. HM-131 was published by MTB for the purpose of clarifying the instrument specifications and implementing the monitoring requirements. The comment period for Docket No. HM-131 expired on February 17, 1976.

Strong objections have been received regarding the impositions upon air carriers caused by the requirements proposed in Docket No. HM-131. Several carriers and carrier associations have pointed out the additional costs which would be incurred in the procurement of the required instruments, and in the training of personnel to carry out the monitoring operations. They questioned the feasibility of training personnel to the level of competency required. Also, many shippers objected to the delays in the transporting of their materials which could be caused by the new requirements. Numerous carriers and shippers contended that responsibility for compliance with the restrictions on maximum permitted radiation levels would more appropriately rest with the shipper, and that the carrier should be allowed to rely upon the shipper's certification, except in cases involving apparent damage or leakage.

Alternatives to the requirements proposed in Docket No. HM-131 were suggested by some commenters. They included central monitoring stations operated by a Federal agency, or the registration of shippers of radioactive materials.

Therefore, after thoroughly considering the comments received, the MTB is withdrawing its proposals under Docket No. HM-131, Notice No. 75-10 for the following reasons:

1. The proposed requirement could result in increased exposure to cargo handlers, particularly since many carriers assign relatively few of their personnel to handling such activities, and the monitoring operation would extend the period of time during which an individual is subject to exposure.

2. Since the publication of the FAA notice on April 25, 1974, implementation of Section 108 of the Hazardous Materials Transportation Act (P.L. 93-633) has restricted the carriage of radioactive materials to those used or intended for use in research, or medical diagnosis or treatment. This substantially reduces the likelihood of inadvertent exposures to the public.

3. A Notice of proposed rulemaking

appears elsewhere in this issue of the FEDERAL REGISTER which, in response to recommendations from the Nuclear Regulatory Commission (NRC), proposes amendments to reduce the maximum radiation level permitted for packages of radioactive materials aboard passenger aircraft, and would increase the required separation distance between passengers and radioactive cargo. The changes discussed in paragraph 2 represent significant increases in the Federal regulatory control of the carriage of radioactive materials by aircraft. If these changes, together with the visual inspection requirements now specified, are eventually used in conjunction with the proposed changes discussed in this paragraph, then it is the judgment of the MTB that these measures will increase safety in the air transportation of radioactive materials more effectively than would the monitoring requirements proposed in Docket No. HM-131.

An additional consideration is the possibility that the medical use of radiopharmaceuticals could be interrupted as a result of: (1) delays in handling of the materials due to the monitoring requirements; and (2) possible increased transportation costs due to the costs of the proposed instrument and personnel training requirements.

Primary drafters of this document are B. D. Devine and A. W. Grella of the Office of Hazardous Materials Operations, Technology Division, J. N. Stottlmyer of the Office of Hazardous Materials Operations, Regulations Development Branch, and G. W. Tenley of the Office of the Assistant General Counsel for Materials Transportation Law.

In consideration of the foregoing, by this notice the MTB is withdrawing its proposals under Docket No. HM-131, Notice No. 75-10.

(49 U.S.C. 1803, 1804, 1806, 1808; 49 CFR 1.53(e).)

Issued in Washington, D.C. on July 12, 1977.

ALAN I. ROBERTS,
Director, Office of
Hazardous Materials Operations.

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